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**From:** Mayor Alberto Santos [mayor@kearnynj.org]  
**Sent:** 8/4/2020 4:25:52 PM  
**To:** Kandil, Shereen [Kandil.Shereen@epa.gov]  
**CC:** susan@mccurrielaw.com; jbruno@cq-law.com; Marks, Stephen [smarks@kearnynj.org]  
**Subject:** RE: Syncon Resins Superfund Call  
**Attachments:** ATT00001.txt

Hello Shereen,

That date and time would work for the Town of Kearny.

Thanks,  
Al Santos

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**From:** Kandil, Shereen [Kandil.Shereen@epa.gov]  
**Sent:** Tuesday, August 04, 2020 10:00 AM  
**To:** Oconnell, Kimberly; Mellott, Deborah; Putnam, Ed; kevin.kratina@dep.nj.gov; Haymes, David; frank.defeo@dep.nj.gov; Abels, Jeanette; Louis Karagias; O'Neill, Tom; jbruno@cq-law.com; susan@mccurrielaw.com; Mayor Alberto Santos; Saghafi, Farnaz  
**Cc:** Zizila, Frances; Baxter, Pamela; Mata, Carsen  
**Subject:** Syncon Resins Superfund Call

Good morning,

We hope that this email finds you and your families well during these challenging times.

When we last met on March 6, 2020, the Town had agreed, subject to formal approvals, with the proposal conveyed by EPA on March 2, 2020. The DEP did not agree and, in turn, provided a counterproposal on March 5<sup>th</sup> which we discussed during the March 6<sup>th</sup> call. During the March 6<sup>th</sup> call, the EPA team expressed its preliminary thoughts and conclusions on certain elements of the DEP's counterproposal but represented that we would discuss them further with EPA management. EPA management has reviewed and considered the DEP's counterproposal, and is not amenable to revising the tiered approach previously proposed by EPA and the Town. In addition, for the reasons discussed below, EPA believes the DEP's modified counterproposal regarding the recovery of interim O&M costs is not acceptable. However, EPA does agree to modify its proposal herein. EPA's final proposal as supported by EPA management, and subject to the approval of EPA officials with the delegated authority to enter into the MOA, is as follows:

Up to the first \$18M in net proceeds, the proceeds will be allocated among the parties as follows: 15% to the Town; 12% to DEP; and 73% to EPA.

1. Documented costs incurred by the Town for the foreclosure and designation of the property as a redevelopment area would be reimbursed to the Town before any allocation of sale proceeds.
2. Any net proceeds over \$18M will be subject to the following tiered approach:
  - (a) the first \$2.5M of surplus funds will be split equally between the USEPA and the Town.
  - (b) Any surplus funds over \$2.5M would be allocated as follows: 25% to the Town; 25% to DEP; and 50% to EPA.
3. DEP will continue to fund and perform the O&M for the OU1 remedy during the interim time period between the execution of the MOA and the sale of the site to a redeveloper following the Town's foreclosure. DEP will

enter into an Administrative Consent Order with the new property owner under which the new owner would commit to perform the O&M for the OU1 remedy going forward.

While EPA appreciates the DEP's effort to modify its request for the recovery of interim O&M costs, EPA believes that the DEP's request on this point continues to be inequitable, unworkable and unnecessary. As part of this proposed settlement, the DEP will require the new property owner to perform the O&M for the OU1 remedy going forward, under DEP oversight, resulting in a significant savings for the DEP. EPA and the Town have supported this element of the proposed settlement while acknowledging that this requirement being placed on the new property owner will inevitably result in a lower overall price for the property, thus reducing the recovery of all parties. In addition, the DEP has also reasoned that the recovery of interim O&M costs creates an incentive to expedite the foreclosure and resale process; however, EPA believes that all parties have an interest in expediting the process required and therefore no additional incentive is necessary.

EPA would like to schedule a meeting with the parties to discuss this matter in an attempt to reach resolution on this so we can move forward and begin drafting the MOA.

Please let us know if **Wednesday, August 12<sup>th</sup>** at 2:00pm will work for the Town and DEP.

Thank you,

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**Shereen Kandil**

Community Affairs Team Lead, Public Affairs Office  
212-637-4333

[Kandil.shereen@epa.gov](mailto:Kandil.shereen@epa.gov)



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